

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

January 6, 2009

3:30 P.M. SCHEDULED SESSION

3:35 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Harold Collins, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Bill Morrison, Jim Strickland, Barbara Swearengen Ware and Chairman Myron Lowery

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Pastor Melvin Charles Smith from Mt. Moriah East Baptist Church. Councilwoman Fullilove presented Pastor Smith with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

Approval of the Minutes of the regular meeting of December 16, 2008 with the following motion:

MOTION: Strickland
SECOND: Ford
AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery
Brown and Halbert did not cast a vote

APPROVED

8. **ORDINANCE TO AMEND ZONING REGULATIONS TO ADOPT DEFINITIONS FOR FINANCIAL SERVICES, PAYDAY LOAN ESTABLISHMENTS AND TITLE LOAN ESTABLISHMENTS AND TO CREATE NEW USE CATEGORIES FOR PAYDAY LOAN ESTABLISHMENTS AND TITLE LOAN ESTABLISHMENTS AND TO ESTABLISH LOCATION AND DISTANCE SEPARATION REQUIREMENTS FOR PAYDAY AND TITLE LOAN ESTABLISHMENTS, UP FOR T H I R D AND F I N A L READING. (THIS ITEM WAS PULLED FROM THE MINUTES OF 12/2/08 ON 12/16/08 AND SENT BACK TO COMMITTEE)**

Ordinance No. 5284
Case No. ZTA 08-001cc

Held until January 27, 2009

9. **ORDINANCE REZONING THE WEST SIDE OF WARFORD STREET; \pm 151 FEET NORTH OF HEARD AVENUE, CONTAINING 13.74 ACRES IN THE VACANT LAND AREA ~ LOCAL COMMERCIAL (C-L) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5289
Case No. Z 08-112

Applicant: Shelby County Government
Shelby County Government – Representative

Request: Planned Commercial (C-P) District

LUCB and OPD recommendation: APPROVAL

DROPPED

16. **RESOLUTION ACCEPTING GOODLETT FARMS EAST P.D., PHASE 14 AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 90-317cc
(Contract No. CR-5089)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located at the intersection of Goodlett Farms Parkway and Garrett Ridge. The Standard improvement contract was approved on August 7, 2007. Resolution also authorizes the release of the certificate of deposit in the amount of \$55,000.00. This action is subject to County approval.

City Engineer recommends approval

DROPPED

1. **RESOLUTION CONGRATULATING UNITED HOUSING ON ITS 15TH ANNIVERSARY.**

MOTION: Boyd
SECOND: Strickland

APPROVED, unanimous voice vote

2. **RESOLUTION RECOGNIZING THE MEMPHIS UNIVERSITY SCHOOL FOOTBALL TEAM AS THE 2008 DIVISION 2-AA STATE CHAMPIONS.**

MOTION: Flinn
SECOND: Strickland

APPROVED, unanimous voice vote

43. **RESOLUTION HONORING AVON LENOX SCHOOL AND PRINCIPAL MARGARET MCKISSICK-LARRY FOR THEIR SUPERIOR ACHIEVEMENTS IN THE FIELD OF EDUCATION IN MEMPHIS AND SHELBY COUNTY.**

MOTION: Lowery
SECOND: Strickland

APPROVED, unanimous voice vote

3. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE SOUTHEAST CORNER OF FISCHER STEEL ROAD AND HERBERT ROAD, +/- 1,500' WEST OF GERMANTOWN PARKWAY CONTAINING 25.62 ACRES IN THE HEAVY INDUSTRIAL (I-H) DISTRICT.**

Case No. PD 08-315

Applicant: Cordova Development Group, Inc.
Frank Fitzgerald/Mark Davis – Representative

Request: A Mixed Use Sports Complex to include Basketball and Hockey Arenas, Hotel, Restaurants, Retail Commercial and Training Space

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison
SECOND: Hedgepeth
AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery
Brown did not cast a vote

APPROVED

4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTH SIDE OF TOURNAMENT DRIVE; +1,070 FEET WEST OF HACKS CROSS ROAD, CONTAINING 27.4 ACRES IN THE AGRICULTURAL FLOOD PLAIN (AG{FP}) DISTRICT. (HELD FROM 12/16/08)**

Case No. PD 08-323

Applicant: Clark & Clark (Ben Clark)
ETI Corporation (Ralph Smith) – Representative

Request: Amend Part of Area D and all of Area E to permit Multi-Family Residential

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison

SECOND: Ford

AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery
Brown did not cast a vote

APPROVED

5. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE BEGINNING AT THE SOUTH SIDE OF LINDEN AVENUE, CONTAINING 1,650 SQUARE FEET AND 163' X 10' (LENGTH X WIDTH OF R.O.W.), IN THE SINGLE FAMILY RESIDENTIAL (R-S6) HISTORIC CONSERVATION (HC) DISTRICT.**

Case No. SAC 08-610

Applicant: Grace St. Luke's Episcopal Church
Askew, Hargraves, Harcourt, and Associates, Inc. –Representative

Request: Close & Vacate Alley Street Right-Of-Way

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison

SECOND: Hedgepeth

AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery
Ford did not cast a vote

APPROVED

6. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE SOUTHWEST CORNER OF POPLAR AVENUE AND BARKSDALE STREET, CONTAINING 0.40 ACRE IN THE MULTIPLE FAMILY RESIDENTIAL (R-MM) DISTRICT.**

Case No. SUP 08-229

Applicant: Paige Williams

Request: Office

LUCB and OPD recommendation: APPROVAL

MOTION: Morrison

SECOND: Hedgepeth

AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery
Ford did not cast a vote

APPROVED, as amended

7. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE NORTH SIDE OF CLUB PARKWAY; ±390 FEET WEST OF GERMANTOWN PARKWAY, CONTAINING 3,035 SQUARE FEET LEASED PARCEL ON A 29,838 SQUARE FEET (0.69 ACRE) TRACT IN THE PLANNED COMMERCIAL (C-P) DISTRICT TRACT REGULATED BY THE CLUB PARKWAY NORTH C-P PLAN (Z 93-120CC).**

Case No. SUP 08-232

Applicant: Tower Ventures V, LLC

Request: Cell Tower (145 ft. monopole with flagpole design)

LUCB and OPD recommendation: APPROVAL

MOTION: Morrison

SECOND: Ware

AYES: Boyd, Brown, Collins, Conrad, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery
Flinn recused
Ford did not cast a vote

APPROVED, as amended

CONSENT AGENDA – Items 10 – 15 & #17 may be acted upon by one motion: SEE PAGE 2766 FOR ROLL CALL

10. **ORDINANCE TO AMEND THE CODE OF ORDINANCES, OF THE CITY OF MEMPHIS, PERTAINING TO THE CONTRACTS OF THE MEMPHIS LIGHT, GAS AND WATER DIVISION RELATING TO SETTLEMENT AGREEMENTS UNDER WORKERS' COMPENSATION LAWS, UP FOR F I R S T READING.**

Ordinance No. 5291

APPROVED, on First reading

11. **ORDINANCE TO PROVIDE FOR MINIMUM ENERGY EFFICIENCY IN RENTAL PROPERTY, UP FOR F I R S T READING.**

Ordinance No. 5292

APPROVED, on First reading

12. **ORDINANCE TO AMEND CHAPTER 2, ARTICLE XI, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO CHANGE THE REPORTING REQUIREMENTS FOR SMALL BUSINESSES, UP FOR F I R S T READING.**

Ordinance No. 5293

APPROVED, on First reading

13. **ORDINANCE REZONING THE SOUTH SIDE OF OVERTON PARK AVENUE; +114.58 FEET WEST OF HAWTHORNE STREET, CONTAINING 0.3932 ACRE IN THE SINGLE FAMILY RESIDENTIAL (R-S8) DISTRICT, UP FOR S E C O N D READING.**

Ordinance No. 5290

Case No. Z 08-116

APPROVED, on Second reading

14. **RESOLUTION APPROVING FINAL PLAT OF NEW TOWNE CENTER AT SOULSVILLE P.D.**

Case No. PD 06-315

Contract No. CR-5131

Resolution approves the final plat located on the southeast corner of East McLemore and Neptune Street. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

APPROVED

15. **RESOLUTION ACCEPTING RIVERPOINT P.D. AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 04-367
(Contract No. CR-4945)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the east side of Island Place East, south of Mud Island Drive. The standard improvement contract was approved on May 17, 2005. Resolution also authorizes the release of the Letter of Credit in the amount of \$70,000.00

City Engineer recommends approval

APPROVED

17. **NOTATIONS FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

- A. Case No. PD 08-326
- B. Case No. PD 08-329 – Trinity Road P. D.

Public Hearing Set for January 27, 2009

ROLL CALL CONSENT ITEMS

MOTION: Morrison
SECOND: Ware
AYES: Boyd, Brown, Conrad, Flinn, Halbert, Hedgepeth, Morrison, Strickland,
Ware and Chairman Lowery
Collins, Ford and Fullilove did not cast a vote

APPROVED

MLGW FISCAL CONSENT – Items 18 – 32 & #34 may be acted upon by one motion:

18. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11112, GENERATOR PREVENTATIVE MAINTENANCE AGREEMENT, WITH CUMMINS MID-SOUTH, LLC, IN THE FUNDED AMOUNT OF \$57,051.40. (THIS RENEWS THE CONTRACT FOR THE SECOND OF FOUR RENEWAL TERMS, JANUARY 21, 2009 TO JANUARY 20, 2010.)**

APPROVED

19. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11134, INTEGRATOR SERVICE FOR ARLINGTON AND CAPLEVILLE LNG PLANTS,**

WITH LOGICAL SYSTEMS, INC., IN THE FUNDED AMOUNT OF \$15,000.00. (THIS RENEWS THE CONTRACT FOR THE FIRST OF FOUR RENEWAL TERMS, JANUARY 21, 2009 TO JANUARY 20, 2010.)

APPROVED

20. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11161, WATER LEAK SURVEY, WITH HEATH CONSULTANTS, INC. IN THE FUNDED AMOUNT OF \$45,000.00. (THIS RENEWS THE CONTRACT FOR THE FIRST OF FOUR RENEWAL TERMS, JANUARY 21, 2009 TO JANUARY 20, 2010.)**

APPROVED

21. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11209, MOBILE DOCUMENT SHREDDING SERVICE, WITH VITAL RECORDS CONTROL IN THE FUNDED AMOUNT OF \$16,057.68. (THIS RENEWS THE CONTRACT FOR THE FIRST OF FOUR RENEWAL TERMS, JANUARY 4, 2009 TO JANUARY 3, 2010.)**

APPROVED

22. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11220, TEMPORARY SERVICES, WITH KELLY SERVICES, INC. IN THE FUNDED AMOUNT OF \$236,844.27. (THIS RENEWS THE CONTRACT FOR THE SECOND OF FOUR RENEWAL TERMS, JANUARY 1, 2009 TO DECEMBER 31, 2009.)**

APPROVED

23. **RESOLUTION AWARDING CONTRACT FOR SOFTWARE SUPPORT, MAINTENANCE AND UPGRADES FOR MLGW'S CURRENT DOCUMENT IMAGING SYSTEM TO OPTICAL LASER IN THE AMOUNT OF \$32,786.50.**

APPROVED

24. **RESOLUTION AWARDING CONTRACT FOR 2,000 BARRICADE STANDS TO CARE SAFETY, LLC IN THE AMOUNT OF \$47,000.00.**

APPROVED

25. **RESOLUTION AWARDING CONTRACT FOR 1,000 BARRICADE BOARDS TO PERSONAL SAFETY FIRST, LLC IN THE AMOUNT OF \$31,910.00.**

APPROVED

26. **RESOLUTION AWARDING CONTRACT FOR ONE WHEEL-TYPE INDUSTRIAL TRACTOR TO THOMPSON MACHINERY, LLC IN THE AMOUNT OF \$50,993.00.**

APPROVED

27. **RESOLUTION AWARDING CONTRACT FOR ONE VMWARE EXPANSION SYSTEM TO LOGICALIS INTEGRATION SOLUTIONS, INC. IN THE AMOUNT OF \$177,657.15.**

APPROVED

28. **RESOLUTION AWARDING CONTRACT FOR ONE BACKHOE LOADER TO STRIBLING EQUIPMENT, LLC IN THE AMOUNT OF \$73,765.00.**

APPROVED

29. **RESOLUTION APPROVING PAYMENT OF 2009 ANNUAL MEMBERSHIP DUES TO THE AMERICAN GAS ASSOCIATION (AGA) IN THE AMOUNT OF \$51,680.00.**

APPROVED

30. **RESOLUTION APPROVING RENEWAL OF COOPERATIVE AGREEMENT NO. 5447, INVESTIGATION OF WATER RESOURCES, WITH THE U.S. DEPARTMENT OF THE INTERIOR GEOLOGICAL SURVEY, FOR THE PERIOD NOVEMBER 1, 2008 THROUGH OCTOBER 31, 2009, IN THE AMOUNT OF \$316,000.00.**

APPROVED

31. **RESOLUTION APPROVING AMENDATORY AGREEMENT BETWEEN MLGW AND TVA FOR MLGW TO COOPERATE IN A PLANNED ONE-YEAR PILOT PROJECT IN CONNECTION WITH THE ENERGYSMART MEMPHIS PROGRAM, TO PURCHASE 264 RESIDENTIAL WINDOW AIR CONDITIONER UNITS AT A COST NOT TO EXCEED \$160,000.00 WHICH WILL BE REIMBURSED BY TVA.**

APPROVED

32. **RESOLUTION APPROVING THE EMPLOYMENT OF BUTLER, SNOW, O'MARA, STEVENS AND CANNADA, PLLC, TO PROVIDE LEGAL SERVICES ON AN AS-NEEDED BASIS AT AN AGREED-UPON HOURLY RATE OF \$210.00 AN HOUR.**

APPROVED

33. **RESOLUTION GIVING CONTRACT AUTHORITY TO MLGW'S GENERAL COUNSEL TO PAY A CLAIMS SETTLEMENT IN THE AMOUNT OF \$180,416.70.**

DROPPED

34. **RESOLUTION GIVING CONTRACT AUTHORITY TO MLGW'S GENERAL COUNSEL TO PAY CLAIMS SETTLEMENTS IN THE AMOUNT OF \$75,029.92.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Ware
SECOND: Strickland
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

35. **RESOLUTION TO WAIVE OBLIGATION OF REPAYMENT FROM THE LIBRARY FOUNDATION IN LIEU OF DIRECT PAYMENTS MADE TO VENDORS FROM THE LIBRARY FOUNDATION.**

MOTION: Halbert
SECOND: Ford
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

36. **RESOLUTION ACCEPTING AND APPROPRIATING GRANT FUNDS IN THE AMOUNT OF TWO HUNDRED TWENTY THOUSAND, FIVE HUNDRED DOLLARS (\$220,500.00) FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE ECONOMIC DEVELOPMENT INITIATIVES SPECIAL PROJECT GRANT TO PROVIDE FUNDS FOR DEMOLITION AND PLANNING ACTIVITIES AS PART OF THE UNIVERSITY PLACE HOPE VI REVITALIZATION PROJECT.**

MOTION: Ford
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

37. **RESOLUTION APPROVING AMENDMENT TO THE MLGW RETIREMENT AND PENSION SYSTEM (THE "PLAN") TO INCORPORATE THE HEART ACT (HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008.**

MOTION: Ware

SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Morrison,
Strickland, Ware and Chairman Lowery
Hedgepeth did not cast a vote

APPROVED

38. **RESOLUTION APPROVING AMENDMENT TO THE MLGW RETIREMENT AND PENSION SYSTEM (THE “PLAN”) TO REVISE THE DEFINITION OF CHILD.**

MOTION: Ware
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Morrison,
Strickland, Ware and Chairman Lowery
Hedgepeth did not cast a vote

APPROVED

39. **RESOLUTION APPROVING AMENDMENT TO THE MLGW RETIREMENT AND PENSION SYSTEM (THE “PLAN”) TO INCLUDE THE REVISED LANGUAGE FROM SECTION 415 OF THE INTERNAL REVENUE CODE.**

MOTION: Ford
SECOND: Ware
AYES: Boyd, Brown, Flinn, Ford, Fullilove, Halbert, Morrison, Strickland, Ware and
Chairman Lowery
Collins, Conrad and Hedgepeth did not cast a vote

APPROVED

40. **RESOLUTION APPROVING A LEASE AGREEMENT WITH T E PRODUCTS PIPELINE COMPANY, LLC(“TEPPCO”), AS APPROVED BY THE BOARD OF COMMISSIONERS OF THE MEMPHIS AND SHELBY COUNTY PORT COMMISSION ON JUNE 24, 2008. (HELD FROM 12/2/08).**

Contract No. CR-5128

MOTION: Collins
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth,
Morrison, Strickland, Ware and Chairman Lowery

APPROVED

41. **RESOLUTION AMENDING THE FY 2009 CAPITAL IMPROVEMENT BUDGET BY APPROPRIATING \$4,183,957.00 WITHIN LOOSAHATCHIE INTERCEPTOR, PROJECT NUMBER SW04008, IN STATE REVOLVING LOAN FUNDS.**

MOTION: Morrison
SECOND: Ford
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Morrison,
Strickland, Ware and Chairman Lowery
Hedgepeth did not cast a vote

APPROVED

42. **RESOLUTION APPROVING CITY INVOLVEMENT IN THE MORTGAGE LENDING LAWSUIT.**

MOTION: Ware
SECOND: Morrison
AYES: Boyd, Brown, Ford, Fullilove, Ware and Chairman Lowery
Conrad, Flinn, Halbert and Strickland abstained
Hedgepeth recused
Collins and Morrison did not cast a vote

APPROVED

(Special Item #1 – Minutes of Item #34 from tonight’s meeting)

MOTION: Ware
SECOND: Strickland
AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Morrison, Strickland, Ware and
Chairman Lowery
Collins, Flinn and Hedgepeth did not cast a vote

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

ADJOURNED MEETING AT 4:52 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records